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LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			PRITCHETT, JOSHUA L	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/018,538

Filing Date: March 11, 2002

Appellant(s): NORMAN, TIMOTHY HUGH

Donald Lucas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 9, 2007 appealing from the Office action mailed April 14, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,604,644	LANG	02-1997
3,972,597	REPAY	08-1976
4,826,306	GRISSEN	05-1989

Merriam-Webster's Collegiate Dictionary Tenth Edition, 1998, p. 440

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-22 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang (US 5,604,644) in view of Repay (US 3,972,597).

Regarding claim 18, Lang ‘644 teaches a vehicle rear view mirror (Fig. 1) comprising a housing (2) and a mirror lens (11) carried by a location frame (12) rigidly mounted within and directly connected to the housing (Fig. 1), the frame and/or housing being made from a resilient material (col. 2 lines 44-57) and the frame being a resilient snap-fit (Fig. 1; col. 2 lines 44-57) within the housing characterized in that the housing has a rim portion (at 21) within the frame is located. The nature of a snap-fit connection requires that the connection means have some resiliency to be able to bend elastically and spring back into place to create the snap-fit. Lang ‘644 lacks reference to the frame and mirror being wholly located without extending over the outer edges of the rim portion and the frame is attached in a fixed position. Repay teaches a mirror (24) with a frame (25) wholly located within a rim portion of a housing (22; Fig. 2) and the frame being in a fixed position (through vibration damper, 38). The definition of fix according to Merriam-Webster’s Collegiate Dictionary Tenth Edition is, “to make firm, **stable**, or stationary” (emphasis added). The purpose of the vibration damper (38) is to make the mirror frame stable so as to not allow the mirror to vibrate thus distorting the reflected image viewed

by the driver. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Lang '644 invention have the frame and mirror located wholly inside the housing and in a fixed position as taught by Repay for the purpose of shielding the frame from the weather to increase the usable life span of the rear view mirror and allowing the driver to observe an image with as little distortion as possible.

Regarding claim 19, Lang '644 teaches the housing is provided with frame retainment means (21) and the frame is provided with housing engagement means (20).

Regarding claim 20, Lang '644 teaches the frame retainment means comprises one or more catches (21) and the housing engagement means comprises one or more abutments (20) which co-operated with the catches (Fig. 1).

Regarding claim 21, Lang '644 teaches the frame is provided with lens engagement means (13).

Regarding claim 22, Lang '644 teaches the lens engagement means comprises one or more abutments (13) adapted to the lens.

Regarding claim 24, Lang '644 teaches the frame is made from a resilient synthetic plastics material (col. 1 line 16).

Regarding claim 25, Lang '644 teaches the housing comprises a casing (2) adapted to cover the rear face of the lens (Fig. 1).

Regarding claim 26, Lang '644 teaches the lens is convex (Fig. 1).

Regarding claims 27 and 28, Lang '644 teaches the lens is of a substrate on which reflective surface may be deposited; specifically glass (col. 2 line 31).

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Regarding claim 29, Lang ‘644 teaches the frame is provided with slots (23) at each corner to provide further resilience to the frame.

Regarding claim 30, Lang ‘644 teaches the housing and the frame are releasably detachable (col. 1 lines 56-60).

Regarding claim 31, Lang ‘644 teaches the housing is provided with means to receive a mounting attached to a vehicle (3).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang (US 5,604,644) in view of Repay (US 3,972,597) as applied to claim 21 above, and further in view of Grissen (US 4,826,306).

Lang ‘644 in combination with Repay teaches the invention as claimed but lacks reference to the use of a lens being a resilient snap-fit into the frame. Grissen teaches a vehicle rear view mirror (11) with a lens (12) that is a resilient snap-fit (Fig. 2) in a frame (21). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Lang ‘644 invention include the snap-fit lens of Grissen for the purpose of eliminating the need for gluing the lens into the frame.

(10) Response to Argument

Applicant argues the term “fixed” means non-adjustable. Applicant provided evidence of this by providing a photocopy of the dictionary definition of the term “fixed.” Examiner agrees that fixed may be defined as not adjustable as stated in the dictionary. However, the term

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“fixed” may also be interpreted as securely placed or fastened as stated in the applicant provided dictionary definition. The combination of Lang and Repay will create an adjustable mirror arrangement as applicant states however the mirror in that arrangement will be securely placed or fastened in the frame. Examiner interprets securely placed or fastened to mean that the mirror will not fall out or disconnect from the housing without some user intervention. The claim language requires, “the housing has a rim portion within which the frame and the mirror lens are wholly located and to which the frame is attached in a fixed position.” The examiner interprets this claim limitation to mean the frame and mirror lens are attached in a securely placed or fastened position. As clearly shown in the Lang (Fig. 1) and Repay (Fig. 2) reference the mirror and frame are secured into place in the rear view mirror assembly. Further evidence that “fixed” is not required to mean not adjustable is the previous inclusion of the term non-adjustable in the claim language. Prior to the Amendment filed March 27, 2006 the claim language included the term non-adjustable. The concurrent use of the terms “fixed” and “non-adjustable” provides clear evidence that applicant acknowledges the terms may have different meanings.

Applicant argues the frame must be “snap-fit” within the housing. As stated in the rejection above, the Lang reference teaches the use of a snap-fit frame to connect to the housing. The inclusion of the Repay reference is to show that it would be obvious to one of ordinary skill in the art to configure the rearview mirror to extend the housing past the front surface of the mirror. The rejection does not mention replacing the method of securing the mirror to the housing, only configuring the housing in such a way as to extend past the mirror surface.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Joshua L Pritchett



Conferees:

Stephone Allen



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Georgia Epps

